

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING**
20 House Building, Utah State Capitol Complex
January 28, 2016

Members Present: Rep. LaVar Christensen, Chair
Rep. Merrill Nelson, Vice Chair
Rep. Fred C. Cox
Rep. Bruce Cutler
Rep. Brian M. Greene
Rep. Craig Hall
Rep. Brian S. King
Rep. Curtis Oda
Rep. V. Lowry Snow
Rep. Kevin J. Stratton
Rep. Mark A. Wheatley

Staff Present: Mr. Gregg Girvan, Policy Analyst
Ms. Glenda Van Wagenen, Committee Secretary

NOTE: A list of visitors and a copy of handouts are filed with the committee minutes.

Chair Christensen called the meeting to order at 2:15 p.m.

Vice Chair Nelson moved to approve the minutes of March 9, 2015. The motion passed unanimously with Rep. King and Rep. Stratton absent for the vote.

H.B. 79 Nonpatient Cause of Action (K. McIff)

Rep. McIff explained the bill.

After discussing the bill, Chair Christensen announced that the bill would be held and placed at the beginning of the next meeting.

H.B. 22 Civil Asset Forfeiture - Procedural Reforms (B. Greene)

Rep. Greene explained the bill.

MOTION: Rep. Oda moved to amend the bill as follows:

1. Page 6, Line 176:

176 facilitate the commission of a federal or state criminal offense and any direct proceeds
of criminal

2. *Page 8, Line 219:*

219 (b) The notice of intent to seek forfeiture shall describe with particularity the:

3. *Page 9, Line 252 through Page 10, Line 284:*

252 { ~~[(b) A] (2) The complaint for civil forfeiture under Subsection (1)(a)(iv) shall describe~~

253 ~~with reasonable particularity [the]:~~

254 ~~—[(i)] (a) the property that is the subject of the forfeiture proceeding;~~

255 ~~—(b) a direct nexus between the seized property and the conduct giving rise to the forfeiture under Subsection 24-4-102(2);~~

257 ~~—[(ii)] (c) the date and place of seizure; and~~

258 ~~—[(iii)] (d) the factual allegations that constitute a basis for forfeiture.~~

259 ~~—[(2)] (3) (a) After a complaint for civil forfeiture is filed in compliance with the requirements of Subsections (1) and (2), the prosecuting attorney shall serve a copy of the~~

261 ~~complaint and summons upon each claimant known to the prosecuting attorney within 30 days.~~

262 ~~—(b) The prosecuting attorney is not required to serve a copy of the complaint or the~~

263 ~~summons upon any claimant who has disclaimed, in writing, an ownership interest in the~~

264 ~~seized property.~~

265 ~~—(c) Service of the complaint and summons shall be by:~~

266 ~~—(i) personal service;~~

267 ~~—(ii) certified mail, return receipt requested, to the claimant's known address; or~~

268 ~~—(iii) service by publication, if the prosecuting attorney demonstrates to the court that~~

269 ~~service cannot reasonably be made by personal service or certified mail.~~

270 ~~—(d) Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:~~

272 ~~—(i) in a newspaper of general circulation in the county in which the seizure occurred;~~

273 ~~and~~

274 ~~—(ii) on [Utah's Public Legal Notice Website] the public legal notice website established~~

275 ~~in Subsection 45-1-101(2)(b):~~
276 ~~— (c) Service is effective upon the earlier of:~~
277 ~~— (i) personal service;~~
278 ~~— (ii) mailing of a written notice; or~~
279 ~~— (iii) publication.~~
280 ~~— (f) Upon motion of the prosecuting attorney and a showing of good cause, the~~
281 ~~court~~
282 ~~may extend the period to complete service under this section for an additional 60 days.~~
283 ~~— (g) An answer made by a claimant under this Subsection (3) shall be filed within~~
284 ~~30~~
285 ~~days after the complaint is served upon the claimant under this Subsection (3).}~~
286 ~~[(3)(a)] {~~(4)~~} (2) In any case where the prosecuting attorney files a complaint~~
287 ~~for civil~~

4. Page 10, Line 290:

290 ~~[(4)] {~~(5)~~} (3) Except as otherwise provided in this chapter, forfeiture~~
291 ~~proceedings are~~

5. Page 10, Line 292:

292 ~~[(5)] {~~(6)~~} (4) The court shall take all reasonable steps to expedite civil~~
293 ~~forfeiture~~

6. Page 10, Line 294:

294 ~~[(6)] {~~(7)~~} (5) In all suits or actions brought under this section for the civil~~
295 ~~forfeiture of any~~

7. Page 10, Line 297:

297 ~~[(7)] {~~(8)~~} (6) A claimant may file an answer to a complaint for civil forfeiture~~
298 ~~without~~

8. Page 17, Line 509:

509 ~~criminal~~ {~~forfeitures~~} forfeiture actions under Section 24-4-105 shall be deposited
510 ~~into the account.~~

The motion passed unanimously.

Spoke for the bill:

Connor Boyack, Libertas Institute
Marina Lowe, ACLU
Greg Boren, Citizen

Spoke against the bill:

Chad Platt, Statewide Association of Prosecutors
Mr. Platt distributed a copy of Utah Code Section 24-4-105, Criminal Forfeiture Procedure.

MOTION: Rep. Oda moved to pass the bill out favorably as amended. The motion passed unanimously.

Vice Chair Nelson assumed the Chair.

H.B. 85 Private Attorney General Doctrine (B. Greene)

The bill was not considered.

H.B. 148 Protective Order Amendments (A. Romero)

Rep. Romero explained the bill assisted by Mr. Stewart Ralphs, Legal Aid Society.

Spoke for the bill:

Dan Deuel, National Parents Organization of Utah

MOTION: Rep. King moved to replace H.B. 148 with 1st Sub. H.B. 148. The motion passed unanimously with Rep. Christensen and Rep. Greene absent for the vote.

MOTION: Rep. Christensen moved to amend the bill as follows:

1. Page 2, Line 56 through Page 3, Line 63:

- 56 (5) If a divorce proceeding is pending between [the] parties to a protective order action,
57 the protective order {+} shall {+} {may} be dismissed when the court issues
a decree of divorce for the
58 parties if:
59 (a) the petitioner in the protective order action is present or has been given notice in

60 both the divorce and protective order action of the hearing; and
61 (b) the court {+} specifically finds that the order need not continue {+} f.l.

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~~{after making specific~~
62 ~~findings on each factor described}~~ and as provided in Subsection (1),
~~{determines that}~~ the petitioner no longer has
63 a reasonable fear of future abuse.

The motion passed unanimously with Rep. Stratton absent for the vote.

MOTION: Rep. Cuttler moved to pass the bill out favorably as amended. The motion passed unanimously with Rep. Stratton absent for the vote.

MOTION: Rep. Wheatley moved to adjourn. The motion passed unanimously with Rep. Statton absent for the vote.

Vice Chair Nelson adjourned the meeting at 4:40 p.m.

Rep. LaVar Christensen, Chair